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SR

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/534,973	03/27/00	BADIN	R 1247-0862-6E

QM32/0709
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EXAMINER	
WEAVER, S	
ART UNIT	PAPER NUMBER
3727	<i>9</i>
DATE MAILED: 07/09/01	

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trad marks

Office Action Summary

Application No.
09/534,973

Applicant(s)
BADIN ET AL

Examiner
Sue A. Weaver

Art Unit
3727



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Apr 19, 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above, claim(s) 9-15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on Mar 27, 2000 is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 5 20) ☐ Other: _____

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1. Claims 9-15 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 8

Applicant's election with traverse of the restriction between independent inventions made in Paper No. 8 is acknowledged. The traversal is on the ground(s) that a search of one invention is required for all. This is not found persuasive because applicant did not properly argue the reasons for distinctness clearly set forth in the restriction, that the article could be made by hand.

The requirement is still deemed proper and is therefore made FINAL.

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the bottle and jar must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Applicant is required to submit a proposed drawing correction in reply to this Office action. However, formal correction of the noted defect can be deferred until the application is allowed by the examiner.

3. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: There doesn't appear to be an antecedent basis in the specification for the percentage of glass claimed in claims 2 and 3

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Akamine. It has long been known that glass flasks can be provided with collars which extend at an angle with axis of the body as taught by Akamine. Akamine teaches the use of glass and is considered to be 100% glass, as is known in the art.

5. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Akamine in view of Hall.

To have formed the collar at an angle of at least 60 degrees for ease of drinking, for example would have been obvious in view of Hall.

6. Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Akamine in view of McCarron.

To have made the collar at an angle between 60 and 180 degrees for ease of dispensing would have been obvious in view of McCarron.


7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents show other containers with angled necks

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sue A. Weaver whose telephone number is (703) 308-1186 on Tuesday-Friday.

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Sue A. Weaver
Primary Examiner

SW

June 30, 2001